

## § 655.83

for false statements or misrepresentations under 18 U.S.C. 1001.

(c) *State's role.* Each State shall certify compliance on behalf of its 49 U.S.C. 5307, 5309, 5311 or 23 U.S.C. 103(e)(4) subrecipients, as applicable. In so certifying, the State shall ensure that each subrecipient is complying with the requirements of this part. A section 5307, 5309, 5311 or 103(e)(4) subrecipient, through the administering State, is subject to suspension of funding from the State if such subrecipient is not in compliance with this part.

### § 655.83 Requirement to certify compliance.

(a) A recipient of FTA financial assistance shall annually certify compliance, as set forth in § 655.82, to the applicable FTA Regional Office.

(b) A certification must be authorized by the organization's governing board or other authorizing official, and must be signed by a party specifically authorized to do so.

(c) A recipient will be ineligible for further FTA financial assistance if the recipient fails to establish and implement an anti-drug and alcohol misuse program in accordance with this part.

(d) FTA may determine that a recipient, who fails to comply with the USCG chemical and alcohol testing requirements, shall be in noncompliance with the alcohol misuse and controlled substances testing requirements of this part. A finding of noncompliance by FTA may lead to the suspension of eligibility for Federal public transportation funding.

[66 FR 42002, Aug. 9, 2001, as amended at 71 FR 69198, Nov. 30, 2006]

## PART 659—RAIL FIXED GUIDEWAY SYSTEMS; STATE SAFETY OVERSIGHT

### Subpart A—General Provisions

Sec.

659.1 Purpose.

659.3 Scope.

659.5 Definitions.

### Subpart B—Role of the State

659.7 Withholding of funds for noncompliance.

659.9 Designation of oversight agency.

659.11 Confidentiality of investigation reports and security plans.

## 49 CFR Ch. VI (10–1–07 Edition)

### Subpart C—Role of the State Oversight Agency

659.13 Overview.

659.15 System safety program standard.

659.17 System safety program plan: general requirements.

659.19 System safety program plan: contents.

659.21 System security plan: general requirements.

659.23 System security plan: contents.

659.25 Annual review of system safety program plan and system security plan.

659.27 Internal safety and security reviews.

659.29 Oversight agency safety and security reviews.

659.31 Hazard management process.

659.33 Accident notification.

659.35 Investigations.

659.37 Corrective action plans.

659.39 Oversight agency reporting to the Federal Transit Administration.

659.41 Conflict of interest.

659.43 Certification of compliance.

AUTHORITY: 49 U.S.C. 5330.

SOURCE: 70 FR 22578, Apr. 29, 2005, unless otherwise noted.

### Subpart A—General Provisions

#### § 659.1 Purpose.

This part implements 49 U.S.C. 5330 by requiring a state to oversee the safety and security of rail fixed guideway systems through a designated oversight agency.

#### § 659.3 Scope.

This part applies only to states with rail fixed guideway systems, as defined in this part.

#### § 659.5 Definitions.

*Contractor* means an entity that performs tasks required on behalf of the oversight or rail transit agency. The rail transit agency may not be a contractor for the oversight agency.

*Corrective action plan* means a plan developed by the rail transit agency that describes the actions the rail transit agency will take to minimize, control, correct, or eliminate hazards, and the schedule for implementing those actions.

*FRA* means the Federal Railroad Administration, an agency within the U.S. Department of Transportation.

*FTA* means the Federal Transit Administration, an agency within the U.S. Department of Transportation.

*Hazard* means any real or potential condition (as defined in the rail transit agency's hazard management process) that can cause injury, illness, or death; damage to or loss of a system, equipment or property; or damage to the environment.

*Individual* means a passenger; employee; contractor; other rail transit facility worker; pedestrian; trespasser; or any person on rail transit-controlled property.

*Investigation* means the process used to determine the causal and contributing factors of an accident or hazard, so that actions can be identified to prevent recurrence.

*New Starts Project* means any rail fixed guideway system funded under FTA's 49 U.S.C. 5309 discretionary construction program.

*Oversight Agency* means the entity, other than the rail transit agency, designated by the state or several states to implement this part.

*Passenger* means a person who is on board, boarding, or alighting from a rail transit vehicle for the purpose of travel.

*Passenger Operations* means the period of time when any aspect of rail transit agency operations are initiated with the intent to carry passengers.

*Program Standard* means a written document developed and adopted by the oversight agency, that describes the policies, objectives, responsibilities, and procedures used to provide rail transit agency safety and security oversight.

*Rail Fixed Guideway System* means any light, heavy, or rapid rail system, monorail, inclined plane, funicular, trolley, or automated guideway that:

- (1) Is not regulated by the Federal Railroad Administration; and
- (2) Is included in FTA's calculation of fixed guideway route miles or receives funding under FTA's formula program for urbanized areas (49 U.S.C. 5336); or
- (3) Has submitted documentation to FTA indicating its intent to be included in FTA's calculation of fixed guideway route miles to receive funding under FTA's formula program for urbanized areas (49 U.S.C. 5336).

*Rail Transit Agency* means an entity that operates a rail fixed guideway system.

*Rail Transit-Controlled Property* means property that is used by the rail transit agency and may be owned, leased, or maintained by the rail transit agency.

*Rail Transit Vehicle* means the rail transit agency's rolling stock, including but not limited to passenger and maintenance vehicles.

*Safety* means freedom from harm resulting from unintentional acts or circumstances.

*Security* means freedom from harm resulting from intentional acts or circumstances.

*State* means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

*System Safety Program Plan* means a document developed and adopted by the rail transit agency, describing its safety policies, objectives, responsibilities, and procedures.

*System Security Plan* means a document developed and adopted by the rail transit agency describing its security policies, objectives, responsibilities, and procedures.

## Subpart B—Role of the State

### § 659.7 Withholding of funds for non-compliance.

(a) The Administrator of the FTA may withhold up to five percent of the amount required to be distributed to any state or affected urbanized area in such state under FTA's formula program for urbanized areas, if:

(1) The state in the previous fiscal year has not met the requirements of this part; and

(2) The Administrator determines that the state is not making adequate efforts to comply with this part.

(b) The Administrator may agree to restore withheld formula funds, if compliance is achieved within two years (See 49 U.S.C. 5330).

### § 659.9 Designation of oversight agency.

(a) *General requirement.* Each state with an existing or anticipated rail fixed guideway system regulated by